



# RULE-MAKING ORDER

**CR-103E (July 2011)**  
(Implements RCW 34.05.350)

Agency: **BOARD OF PILOTAGE COMMISSIONERS**

**Emergency Rule Only**

Effective date of rule:

Emergency Rules

☒ Immediately upon filing.

☐ Later (specify) \_\_\_\_\_

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose:

To provide alternate mechanisms by which revenue is provided for a pilot trainee, in the Grays Harbor Pilotage District, to be paid a stipend while in a pilot training program.

Citation of existing rules affected by this order:

Repealed:

Amended: **WAC 363-116-078: TRAINING PROGRAM**

Suspended:

Statutory authority for adoption: **Chapter 88.16.RCW**

Other authority :

## EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- ☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- ☐ That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: Currently, funding for trainee stipends may be provided through a surcharge in the tariff levied pursuant to WAC 363-116-185: *Pilotage Rates for the Grays Harbor Pilotage District*. Funding by this method (through the tariff) would impose a detrimental burden on the customers calling at Grays Harbor. As an alternative, the Port of Grays Harbor is requesting the flexibility to provide stipend funding from other means. Emergency adoption of an amendment to WAC 363-116-078: *Training Program* is necessary to assure stipend funding for a trainee in the GHPD. It is necessary to provide a solution that allows the Port of Grays Harbor to fund a trainee stipend rather than the current provision which requires a tariff surcharge. It is the Board's intent to make this proposed provision permanent.

Date adopted: **November 15, 2012**

NAME (TYPE OR PRINT)

**Peggy Larson**

SIGNATURE

*Peggy Larson*

TITLE

**Executive Director**

## CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 17, 2012**

**TIME: 12:58 PM**

**WSR 13-01-058**

(COMPLETE REVERSE SIDE)

AMENDATORY SECTION (Amending WSR 12-05-064, filed 2/15/12, effective 3/17/12)

**WAC 363-116-078 Training program.** After passing the written examination and simulator evaluation, pilot applicants pursuing a pilot license will be put on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board.

(1) Notification. Pilot applicants on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with a current address to be used for notification for entry into a training program. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as a phone number, fax number, and/or an e-mail address. The mailing address will, however, be considered the primary means of notification by the board. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. If a pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing with a notarized copy to the board as having power of attorney specifically to act in the pilot applicant's behalf regarding such notice. If notice sent to the address provided by the pilot applicant is returned after three attempts to deliver, that pilot applicant will be skipped and the next pilot applicant on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot applicant or his/her designated attorney in fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot applicant or applicants in a training program for a pilotage district, notification shall be given as provided in this section. Pilot applicants shall be ranked in accordance with a point system established by the board to assess overall performance on the written examination and simulator evaluation. Applicants shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot applicant who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot applicant. If the pilot applicant applied for a license in the other pilotage district when applying for the written examination, the applicant shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot applicant who is not able to start a training

program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When an applicant delays entry into a training program by more than two months, the board will give notice to the next pilot applicant on the list for that pilotage district to enter a training program. The pilot applicant who delays entry, shall remain eligible for the next position in that district, provided that the next position becomes available within the earlier of:

(i) Four years from the pilot applicant's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot applicant not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC 363-116-076 and the simulator evaluation provided in WAC 363-116-077.

(3) Training license. Prior to receiving a training license pilot applicants must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC 363-116-120 for initial pilot applicants. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot applicant's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that license. Training license physical examinations will be at the expense of the pilot applicant. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot applicant shall meet with the trainee evaluation committee (TEC) for the purpose of devising a training program for that pilot applicant. The training program shall be tailored to the ability and experience of the individual pilot applicant and shall consist of observation trips, training trips and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot applicant. If the pilot applicant agrees in writing to the training program, the board shall issue a training license to the pilot applicant, which license shall authorize the pilot applicant to take such actions as are contained in the training program. If the pilot applicant does not agree to the terms of a training program in writing within fifteen business days of it being mailed to the applicant by certified mail, return receipt requested, that pilot applicant



shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot applicant that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial route.

(a) The trainee evaluation committee (TEC) shall assign an initial route between a commonly navigated port or terminal and the seaward boundary of the pilotage district to each trainee at the beginning of his/her training program.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is on stipend or within fifteen months of the beginning of the training program if the trainee is not on stipend, the trainee must:

(i) Take and pass all conning quizzes provided by the board applicable to the assigned route. These quizzes can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(ii) Take and pass the local knowledge examinations provided by the board applicable to the assigned route. These examinations can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the assigned initial route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assignments, observation, training and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the trainee evaluation committee (TEC) or with pilots of specified experience. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by training pilots and the pilot members of the TEC.

(7) Length of training program. The board shall set the minimum length of a training program provided that it will not be less than eight months in the Puget Sound pilotage district.

(8) Local knowledge. A training program shall provide

opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. This education program shall be developed by the trainee evaluation committee (TEC) and recommended to the board for adoption, in the form of a policy statement, and shall be tailored to the needs of the individual pilot trainee. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. Prior to the completion of a training program, the board, or its designee, may give such local knowledge examination(s) as it deems appropriate to the pilot trainees who shall be required to pass such examination(s) before completing a training program. The TEC may require a pilot trainee to sit for a local knowledge examination provided the TEC informs the pilot trainee in writing sixty days in advance of the scheduled date of the examination. Failure to sit for the examination on the date scheduled may constitute cause for removal from the training program. The TEC may also establish in writing such interim performance requirements as it deems necessary. These local examinations can be repeated as necessary, except that an examination for the same local area may not be taken more than once in any seven-day period and all required local knowledge examinations must be successfully passed before the expiration date of the training program. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

- (a) Area geography;
- (b) Waterway configurations including channel depths, widths and other characteristics;
- (c) Hydrology and hydraulics of large ships in shallow water and narrow channels;
- (d) Tides and currents;
- (e) Winds and weather;
- (f) Local aids to navigation;
- (g) Bottom composition;
- (h) Local docks, berths and other marine facilities including length, least depths and other characteristics;
- (i) Mooring line procedures;
- (j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;
- (k) Vessel traffic system;
- (l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;
- (m) Air draft and keel clearances;
- (n) Submerged cable and pipeline areas;
- (o) Overhead cable areas and clearances;
- (p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;
- (q) Lock characteristics, rules and regulations;
- (r) Commonly used anchorage areas;
- (s) Danger zone and restricted area regulations;
- (t) Regulated navigation areas;

- (u) Naval operation area regulations;
- (v) Local ship assist and escort tug characteristics;
- (w) Tanker escort rules - State and federal;
- (x) Use of anchors and knowledge of ground tackle;
- (y) Applicable federal and state marine and environmental safety law requirements;
- (z) Marine security and safety zone concerns;
- (aa) Harbor safety plan and harbor regulations;
- (bb) Chapters 88.16 RCW and 363-116 WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC 363-116-076; and
- (cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.

(9) Rest. It is the pilot trainee's responsibility to provide adequate rest time so that he/she is fully able to pilot on training trips. Pilot trainees shall not take pilot training trips in which they will be piloting the vessel without observing the rest rules for pilots in place by federal or state law or regulation or any other rest requirements contained in a training program. For purposes of calculating rest required before a training trip in which the pilot trainee will be piloting after an observation trip in which the pilot trainee did not pilot the vessel, such observation trip shall be treated as though it had been a normal pilot training assignment.

(10) Stipend.

(a) At the initial meeting with the trainee evaluation committee (TEC) the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the board and, if necessary, the restructuring of their training program, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-300 sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's ~~((setting of a training surcharge in the tariffs levied pursuant to WAC 363-116-185))~~ receipt from any party collecting the tariff or funds sufficient to cover the expense of the stipend and shall be paid from a pilot training

account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

(i) Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the fifth day of the following month. The stipend will be paid on an all or nothing basis for each month except that prorations shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(A) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(B) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month; or

(C) For a pilot trainee who requests a change from a nonstipend status to a stipend status, or from a stipend status to a nonstipend status as set forth in (a)(vi) of this subsection.

(ii) In the Puget Sound pilotage district a minimum of eighteen trips are required each month for eligibility to receive the stipend. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is ((fifty)) eighty percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

(iii) It is the pilot trainee's responsibility to make all hard-to-get trips before the end of the training program. If a training program is extended due to a failure to get all of these trips, the board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

(iv) The TEC with approval by the board may allocate, assign or specify training trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(A) When it is necessary to accommodate any pilot trainee's initial route;

(B) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (a)(ii) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

(v) If a pilot trainee elects to engage in any full- or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the



training program."

(vi) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days, provided that before any change takes effect the board and the pilot trainee must agree in writing on the terms of a revised training program.

(b) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC 363-116-185 or 363-116-300 shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC 363-116-185 shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a quarterly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW 88.16.090; and one other member of the board who is not a pilot. The TEC may include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) Training pilots. The board shall designate as training pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Training pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of training pilots available for public inspection at all times. All pilot members of the trainee evaluation committee (TEC) shall also be training pilots.



(13) Training and assessment. Before, during and after a pilot trainee pilots a vessel under the supervision of a pilot on a training trip, the supervising pilot shall, to the extent possible, communicate with and give guidance to the pilot trainee in an effort to make the trip a valuable learning experience. On an evaluation trip, this communication will normally occur after completion of the trip. After each trip, the supervising pilot shall complete a trip report form provided by the board. Trip report forms prepared by licensed pilots who are not training pilots shall be used by the trainee evaluation committee (TEC) and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. The use of trip report forms prepared by licensed pilots who are not training pilots shall be appropriately weighed by the board and the TEC when making licensing decisions and recommendations. All trip report forms shall be delivered or mailed by the supervising pilot to the board. They shall not be given to the pilot trainee. The supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form until it is filed with the board. The TEC shall review these trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

(a) Failure to maintain the minimum federal license required by RCW 88.16.090;

(b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;

(c) Failure to devote full time to training in the Puget Sound pilotage district if receiving a stipend;

(d) The pilot trainee is not physically fit to pilot;

(e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;

(f) Inadequate performance on examinations or other actions required by a training program;

(g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training trips as determined by the supervising pilots, the trainee evaluation committee (TEC) and/or the board; or

(i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirement that the pilot trainee:

(a) Successfully and timely complete the requirements set forth in the training program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot applicant seeks a license; and

(c) Successfully complete any local knowledge examination(s) required by the board and specified in the training program.